4.8.2006 Present: Mr.Sandeep Sharma, Advocate, for the petitioners.

After hearing the detailed arguments of Mr. Sandeep Sharma, learned counsel appearing for the petitioners and on going through the impugned order dated 24th April, 2006 as well as the interlocutory orders passed in the suit starting from 25th November, 2005, I feel totally and absolutely convinced that the petitioners-defendants were grossly negligent in not filing the written statement within the statutory period and, therefore, the learned Court below by the impugned order has rejected their application for extension of time, thus in effect and substance closing the right of the petitioners-defendants to file the written statement.

Mr.Sharma submitted that this petition be treated as mercy petition and as an exception the petitioners be permitted to file the written statement subject to payment of heavy costs.

Even though the petitioners based upon the aforesaid facts, are not held entitled to latitude or leniency, looking to the aforesaid prayer of Mr.Sharma, I set aside the impugned order and permit the petitioners to file the written statement in the trial Court before 14th August, 2006, subject to payment of Rs.7500/- as

costs to the respondent-plaintiff within the same period. If either the costs are not paid or the written statement is not filed before the aforesaid date, this order shall cease to be operative.

Since I have passed this order in the absence of the respondent for quick disposal of the case, I permit the respondents to approach this Court for recalling this order, if so advised.

CMP No.440/2006

In view of the disposal of the main petition, the present application is also disposed of.

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4th August, 2006 (V.K.Gupta), C.J.
(C)